

equipment relocation or rearrangement, special tooling and special test equipment, preproduction engineering, initial rework, initial spoilage, pilot runs, allocable portions of the costs of facilities to be acquired or established for the conduct of the work, costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force, and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above), which might be incurred for performance of subsequent program year requirements. The total estimate of the above costs must then be compared with the best estimate of the contract cost to arrive at a reasonable percentage or dollar figure. To perform this calculation, the contracting officer should obtain in-house engineering cost estimates identifying the detailed recurring and nonrecurring costs, and the effect of labor learning.

(3) The contracting officer shall establish cancellation dates for each program year's requirements regarding production lead time and the date by which funding for these requirements can reasonably be established. The contracting officer shall include these dates in the schedule, as appropriate.

(d) *Cancellation ceilings.* Cancellation ceilings and dates may be revised after issuing the solicitation if necessary. In sealed bidding, the contracting officer shall change the ceiling by amending the solicitation before bid opening. In two-step sealed bidding, discussions conducted during the first step may indicate the need for revised ceilings and dates which may be incorporated in step two. In a negotiated acquisition, negotiations with offerors may provide information requiring a change in cancellation ceilings and dates before final negotiation and contract award.

(e) *Payment of cancellation charges.* If cancellation occurs, the Government's liability will be determined by the terms of the applicable contract.

(f) *Presolicitation or pre-bid conferences.* To ensure that all interested sources of supply are thoroughly aware of how multiyear contracting is accomplished, use of presolicitation or pre-bid conferences may be advisable.

(g) *Payment limit.* The contracting officer shall limit the Government's payment obligation to an amount available for contract performance. The contracting officer shall insert the amount for the first program year in the contract upon award and modify it for successive program years upon availability of funds.

(h) *Termination payment.* If the contract is terminated for the convenience of the Government in whole, including requirements subject to cancellation, the Government's obligation shall not exceed the amount specified in the Schedule as available for contract performance, plus the cancellation ceiling.

[61 FR 39204, July 26, 1996, as amended at 62 FR 51270, Sept. 30, 1997]

#### 17.106-2 Solicitations.

Solicitations for multiyear contracts shall reflect all the factors to be considered for evaluation, specifically including the following:

(a) The requirements, by item of supply or service, for the—

(1) First program year; and

(2) Multiyear contract including the requirements for each program year.

(b) Criteria for comparing the lowest evaluated submission on the first program year requirements to the lowest evaluated submission on the multiyear requirements.

(c) A provision that, if the Government determines before award that only the first program year requirements are needed, the Government's evaluation of the price or estimated cost and fee shall consider only the first year.

(d) A provision specifying a separate cancellation ceiling (on a percentage or dollar basis) and dates applicable to each program year subject to a cancellation (see 17.106-1 (c) and (d)).

(e) A statement that award will not be made on less than the first program year requirements.

(f) The Government's administrative costs of annual contracting may be used as a factor in the evaluation only if they can be reasonably established and are stated in the solicitation.

(g) The cancellation ceiling shall not be an evaluation factor.